

# NOTICE OF PROPOSED ADOPTION OF REGULATIONS

**California Code of Regulations  
Title 2. Administration  
Division 2. Operations  
Chapter 3. Department of General Services  
Subchapter 12. Personal Services Contracts  
Sections 1896.300 – 1896.370**

**NOTICE IS HEREBY GIVEN** that the Department of General Services (“DGS”) proposes to adopt regulations implementing Government Code Section 19134, relating to mandatory employee benefits in certain types of personal services contracts.

DGS proposes to adopt the new regulations after considering all comments, objections and recommendations regarding the proposed action.

**AUTHORITY AND REFERENCE:**

Government Code Section 19134(f) authorizes the Department of General Services and the Department of Personnel Administration to implement, interpret, and make specific the requirements for implementing employee benefits provisions in personal services contracts covered by Government Section 19134.

**PUBLIC HEARING:**

Date and Time: October 9, 2001, from 10:00 am to 12:00 pm  
Place: 1325 J Street, Suite 1946, Sacramento, California  
Purpose: To receive oral public comments about this action

**WRITTEN PUBLIC COMMENT PERIOD:**

The public comment period for written comments will close on October 5, 2001, at 5:00 pm. However, any person may also submit written comments about the proposed regulations at the hearing. Written comments submitted other than at the hearing should be sent to the attention of Laurie Giberson, Department of General Services, Office of Legal Services, 1325 J Street, Suite 1911, Sacramento, California 95814. Written comments may also be e-mailed to Laurie Giberson at [laurie.giberson@dgs.ca.gov](mailto:laurie.giberson@dgs.ca.gov) or faxed to attention Laurie Giberson, (916) 327-3916 by the above deadline.

**AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/**

**CONTACT PERSON:**

The Department of General Services’ contact person for questions concerning this proposed administrative action, as well as questions concerning the substance of the proposed regulations, is: Laurie Giberson, Department of General Services, Office Of Legal Services, 1325 J Street, Suite 1911, Sacramento, California 95814, (916) 322-5953. The backup contact person is Jeff Marschner at (916) 322-5944.

Copies of the express terms of the proposed action, the Statement of Reasons, and all of the information upon which this proposal is based are available upon request from DGS's contact person or backup contact person at the above address/phone numbers. The rulemaking file is also available for review at the above address, between normal business hours of 8:00 am to 5:00 pm.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, DGS will make the full text of the changed regulations available for at least 15 days before the date the regulations are permanently adopted.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Government Code Section 19134 requires that state contracts for janitorial, housekeeping, custodian, food service, security guard, laundry, and/or window cleaning services include benefits for persons performing these services. Section 19134 authorizes the Department of General Services to adopt regulations to implement the contracting requirements. These proposed regulations describe the requirements mandated by Government Code Section 19134 and specify what contracting state agencies and contractors must do to comply with Section 19134's employee benefit requirements.

**IMPACT ON SMALL BUSINESS:**

The proposed regulations will not disproportionately affect small businesses. Government Code Section 19134 mandates payment of employee benefits by all contractors providing enumerated personal services under contract with the state, regardless of business size. Section 19134 offers the option of paying cash in lieu of actual benefits, which will assist contractors, including small businesses, that are unable to obtain insurance coverage for their employees. The added costs of paying employee benefits or cash in lieu mandated by Government Code Section 19134 can be covered by payments from contracting state agencies to contractors.

**COST ESTIMATES OF PROPOSED ACTION:**

Costs or Savings to State Agencies:

Payment of employee benefits pursuant to Government Code Section 19134 will be a cost to state agencies. However, such cost is a result of the statute itself, not the implementing regulations. The cost to state agencies to pay benefits pursuant to Government Code Section 19134 is estimated to be a maximum of \$2 million annually, cumulative statewide. By creating a unified approach to implementing Government Code Section 19134, the regulations will result in unquantifiable administrative savings for agencies.

Impact on Housing Costs:

No impact.

Costs or Savings in Federal Funding to the State:

No impact.

Cost to any Local Agency or School District for Which Government Code §§ 17500-17630

Require Reimbursement:

The proposed regulations do not impose any mandate or cost to any local agency or school district for which Government Code §§ 17500-17630 require reimbursement.

Other Non-discretionary Costs or Savings Imposed on Local Agencies:

The proposed regulations do not impose non-discretionary costs or savings on local agencies.

Cost Impact on Representative Private Persons or Businesses:

Compliance with the regulations will impose minimal administrative costs on contractors who will be required to document employee benefits payments in monthly reports to contracting state agencies, and may have tax consequences for contractors who will receive additional contract dollars to pay out employee benefits. However, such costs are necessarily the result of Government Code Section 19134's mandate for payment of such benefits (i.e. payment of employee benefits has administrative consequences). Presumably, contractors will be able to anticipate and factor in such costs when bidding for state contracts.

**ASSESSMENT OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS:**

The proposed regulations will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Government Code Section 19134 and the implementing regulations apply to all contractors supplying the enumerated personal services under contract with the state, regardless of the contractor's locale. The direct costs of employee benefits mandated by Government Code Section 19134 can be covered by payments from contracting state agencies to contractors under contracts subject to section 19134.

**ASSESSMENT REGARDING THE EFFECT ON JOBS OR BUSINESSES:**

The proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**NECESSITY OF REGULATORY REPORTING REQUIREMENT:**

The proposal includes a requirement that contractors submit monthly reports to contracting state agencies identifying the names of each employee to whom the contractor paid employee benefits pursuant to Government Code Section 19134 in the preceding month, and the amount thereof. Such a reporting requirement is necessary to ensure contractors' compliance with Government Code Section 19134's mandate that covered employees receive employee benefits and is therefore deemed necessary for the health, safety, and general welfare of the state as required by Government Code Section 11346.3(c).

**DETERMINATION:**

DGS must determine that no reasonable alternative considered by DGS, or that has otherwise been identified and brought to the attention of DGS, would be more effective in carrying out the purposes for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. DGS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**FINAL STATEMENT OF REASONS:**

When the Final Statement of Reasons is prepared and available, copies may be obtained by contacting the Department of General Services' contact person listed above.

**ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON DGS'S WEBSITE:**

The text of the proposed regulations, the Notice of Proposed Adoption of Regulations and Statement of Reasons, and if prepared and when available for review the Final Statement of Reasons, will be on the Department of General Services' Office of Legal Services' website at: [www.dgs.ca.gov/ols](http://www.dgs.ca.gov/ols).